



JTPA

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Serving the People of California

DIRECTIVE

Date: May 27, 1997

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TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
JTPD PROGRAM OPERATORS
EDD JOB SERVICE OFFICE MANAGERS
JTPD STAFF

SUBJECT: COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990

EXECUTIVE SUMMARY:

Purpose:

This Directive establishes policy and procedures for reviewing all policies, programs, services, activities, and practices to ensure they do not discriminate against persons with disabilities.

Scope:

This Directive requires that the Job Training Partnership Act (JTPA) recipients, Service Delivery Area (SDA) grant recipients, Title III substate grantees and other subrecipients shall comply with the Americans with Disabilities Act (ADA) of 1990.

Effective Date:

This Directive is effective immediately.

REFERENCES:

- The Civil Rights Act of 1964, as amended
- Title 29 Code of Federal Regulations (CFR) Parts 31, 32, and 34
- Section 504 of the Rehabilitation Act of 1973, as amended in 1992
- JTPA Section 167
- ADA of 1990

STATE-IMPOSED REQUIREMENTS:

This Directive contains a state-imposed requirement. This requirement is indicated by ***bold, italic*** type.

FILING INSTRUCTIONS:

This Directive supersedes Directive 85-9 (Rev. 1). Retain until further notice.

BACKGROUND:

The ADA is historic legislation. The ADA is the result of many years of effort to obtain federal legislation that protects individuals with disabilities. Enacted on July 26, 1990, the ADA gives civil rights protection to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications.

Beginning January 26, 1992, Title II of the ADA prohibited all public agencies, regardless of the size of their work force, from discriminating against persons with disabilities or from excluding participation or denying benefits of programs, services or activities to persons with disabilities. The employment nondiscrimination standards utilized for the ADA were those in Section 504 of the Rehabilitation Act of 1973. This employment discrimination prohibition covers all aspects of employment including recruitment, application, hiring, promotion and demotion, layoffs, compensation and benefits, training, and employer-sponsored activities. In providing equal employment opportunities, when requested public agencies are required to make reasonable accommodations for qualified applicants and employees with disabilities.

Unlike Section 504 of the Rehabilitation Act of 1973, which only covers programs receiving federal financial assistance, Title II of the ADA extends to all the activities of state and local governments whether or not they receive federal funds.

Public sector entities were required to complete a Transition Plan for barrier removal to guarantee program access by July 26, 1992, and full Self-Evaluations of all policies and practices by January 26, 1993. Structural changes required by the Transition Plan were scheduled for completion by January 26, 1995.

POLICY AND PROCEDURES:

As indicated in the ADA, SDAs must establish and maintain policy, procedures and practices that guarantee equal opportunity for individuals with disabilities in public and private sector services and employment. The following is a synopsis of the five titles of the ADA:

Title I: Employment

Employers must ensure their employment practices do not discriminate against qualified persons with disabilities in the application and recruitment processes, hiring, advancement, training, compensation or discharge of an employee, or in any other terms, conditions and privileges of employment.

Title II: Public Sector Services

Title II prohibits state and local governments from discriminating against persons with disabilities or from excluding participation or denying benefits of programs, services or activities to persons with disabilities.

Title III: Private Sector Services

Title III requires places of public accommodation to be accessible to and usable by people with disabilities. Private businesses must not discriminate in the “goods, services, facilities, procedures, and privileges, advantages and accommodations” offered to the public.

Title IV: Telecommunications

The ADA requires common carriers offering telephone services to the general public to increase the availability of interstate and intrastate telecommunications relay services to individuals with hearing and speech impairments. All common carriers of telephone services must offer non-voice relay services which interface with voice services. Compliance rests with the Federal Communications Commission.

Title V: Miscellaneous Provisions

Title V contains several miscellaneous provisions such as:

1. The ADA cannot be construed to apply a lesser standard of compliance than does the Rehabilitation Act of 1973.
2. The ADA does not limit or invalidate any other federal or state law which provides equal or greater protection.
3. The ADA does not affect smoking restrictions, Occupational Safety and Health Act (OSHA) requirements or employee drug testing programs.
4. The ADA does not affect current state laws and policies governing insurance, or limit valid underwriting procedures based on risk classification.
5. Title V explicitly prohibits coercion, intimidation, or threats against persons exercising their rights under the ADA.
6. Title V establishes specific responsibilities for the adoption of regulations by federal agencies as well as technical assistance.
7. Title V excludes from protection those conditions which are related solely to sexual identity, but not disability.
8. Title V also excludes from coverage active drug users but prohibits discrimination against those who are perceived as having a disability by reason of a drug history, have participated in a supervised drug rehabilitation program, or are erroneously regarded as engaging in such use.

The Department of Rehabilitation is the lead state agency for implementing the ADA. The Department established an ADA Implementation Unit which provides consultation and technical assistance for business employers, employees and job applicants, and consumers of public and private services. The Department issued three publications which will assist SDAs to ensure their policies and procedures are in compliance with the ADA. These publications, which are included as attachments, are as follows:

- Americans with Disabilities Act: A Comprehensive Overview
- Americans with Disabilities Act: Title II Self-Evaluation and Transition Plan Guide
- Americans with Disabilities Act: Access Guide: Survey Checklist

The SDAs, and their service providers must ensure that all policies, programs, services, activities, and practices do not discriminate against persons with disabilities. ***Any policies, programs, services, activities, and practices determined to be inconsistent with ADA requirements must be corrected immediately.***

ACTION:

It is the responsibility of the SDAs to establish and maintain policy, procedures and practices required by the ADA.

INQUIRIES:

If you have any questions about this Directive, please contact your Program Manager.

/S/ BILL BURKE
Acting Chief

Attachments are not available on line. To obtain a copy e-mail JTPD at **JTPDLIB@EDD.CA.GOV** or contact Jim Scholl at (916) 657-4610.

1. Americans with Disabilities Act, Title II Self-Evaluation and Transition Plan Guide
2. Americans with Disabilities Act, A Comprehensive Overview
3. Americans with Disabilities Act, Access Guide: Survey Checklist